

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOHN NORMAN PENNYPACKER, )  
Petitioner, )  
v. ) C.A. No. 06-239 Erie  
ATTORNEY GENERAL OF PA, )  
Respondent. )

**MEMORANDUM ORDER**

This petition for writ of habeas corpus was received by the Clerk of Court on October 17, 2006, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The magistrate judge's report and recommendation, filed on October 26, 2006, recommended that the Petitioner's Motion to Proceed In Forma Pauperis (Doc. #3) be denied and that the case be dismissed without prejudice. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Petitioner by certified mail at SCI Albion, where he is incarcerated, and on Respondent. No objections were filed. After de novo review of the petition and documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 11<sup>th</sup> Day of December, 2006;

IT IS HEREBY ORDERED that the Petitioner's Motion to Proceed In Forma Pauperis (Doc. #3) is DENIED, and it is further

ORDERED that the case is DISMISSED without prejudice.

The report and recommendation of Magistrate Judge Baxter, dated October 26, 2006, is adopted as the opinion of the court.

*Maurice B. Cohill, Jr.*  
MAURICE B. COHILL, JR.  
United States District Judge

cc: Susan Paradise Baxter  
U.S. Magistrate Judge

all parties of record \_\_\_\_\_